IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.588/2003

1. TATA ENGINEERING & LOCOMOTIVE CO. LTD., a registered Company's Act, 1956 with its registered Office at Bombay, House No.24, Homi Mody Street, Mumbai 400 001, through its Zonal House, 1st Floor, New Market, Margao - 403 601.

2. M/S. NARCINVA DAMODAR NAIK, a registered Partnership firm, under the Indian Partnership Act, 1932, with its Office at V.N. Naik, P.O. Fatorda, Margao - 403 602, represented by Power of Attorney, Shri Atonio Gonsalves Mascarenhas, 65 years, resident of Navelim, Goa. .... Petitioners.

V/s.

SHRI GAJANAN Y. MANDREKAR, resident of Camral, H.No.158, Curchorem, Quepem, Goa. .... Respondent.

Mr. Sudesh M.S. Usgaonkar, Advocate for the petitioners.

None for the respondent.

CORAM : A.M. KHANWILKAR, J.

DATE : DECEMBER 4, 2003.

ORAL JUDGMENT:

Heard. Leave to correct prayer clause (b) instead of "amendment" to incorporate "adjournment".

2. Notice was issued on 21.11.2003 that the matter will be finally disposed of at notice stage.

Although the respondent has been served, none appeared. As short question is involved, the matter is taken up for final disposal forthwith. The only question that arises for consideration is whether the request of the petitioners for adjournment has been rightly rejected by the Court below on the ground that more than three adjournments were impermissible ? The issue now stands concluded by the decision of this Court in Writ Petition No.294/2003, decided on August 7, 2003 in the case of Vishwas Yeshwant Vaingankar & anr. v/s. Mrs. Helena Mascarenhas e Souza Ticlo and anr. In the circumstances, the sole reason recorded by the Court below cannot be sustained. Accordingly, the impugned order dated 8.10.2003 is set aside and instead the application as filed at the instance of the petitioners dated 8.10.2003 is allowed. The parties to appear before the trial Court for further directions on 15th December, 2003. The amount which has been deposited in this Court being the sum of Rs.5,000/- be made over to the respondent, if such an application is made to the Registry of this Court. If the respondent fails to withdraw the amount as deposited, within three months from today, the same be credited to the account of the High Court Legal Services Authority.

A.M. KHANWILKAR, J.

ssm.